IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

MFA.No. 1090 of 2001(B)

O.P(MV).NO.661/1998 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, THRISSUR.
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APPELLANT/ PETITIONER:

FATHIMA A.M.,
ARAKKAL HOUSE,
SHASTRIJI NAGAR,
KUNNAMKULAM,
THRISSUR DIST.

BY ADV. SRI.N.P.SAMUEL,
ADV. SRI.V.R.REJITHKUMAR.

RESPONDENTS:
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1. K. ABDUL KADER,
XX/260, PAZHOOR HOUSE,
SANTHI NAGAR, THRISSUR -3.

2. THE ORIENTAL INSURANCE COMPANY LTD.,
U. BROTHERS BUILDING, GURUVAYUR ROAD,
KUNNAMKULAM - 680 503, THRISSUR DIST.

BY ADV. SRI.P.V.JYOTHI PRASAD,
ADV. SRI.V.BINOY RAM.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 01/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA, JJ.

M.F.A.No.1090 OF 2001

Dated 1st December, 2007

JUDGMENT

Koshy,J.

Appellant while travelling in a car bearing registration No.KL-8/H-4977 driven by her husband, met with an accident and sustained serious injuries. Contention of the appellant was that because of the negligent driving of her husband, owner-cum-driver of the car, the car went out of control and dashed against the ridge of a canal on the road side. Tribunal came to the conclusion that it is a misfortune. There is no evidence to show that the accident occurred due to the negligence of the driver of the car, but, it accidentally went out of control. The matter was reported to the police only after three days of the incident and reporting of the police, criminal case etc. itself may be collusive. In any event, considering the serious nature of the injuries, Rs.25,000/= was awarded by the Tribunal under section 140 of the Motor Vehicles Act. Insurance company did not file any appeal even though in the written statement they raised a contention that since it was only an act policy, the passengers are not covered. If there is any liability, owner and driver of the vehicle have to suffer the same. In this case, since the owner-cum-driver is appellant's husband, there is no necessity to pass a higher amount to be paid by the husband. In view of the contentions

and finding of facts in this particular case, we see no ground to interfere with the award.

The appeal is dismissed.

J.B.KOSHY
JUDGE

K.HEMA
JUDGE

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